



Specialty Independent Review Organization, Inc.

April 6, 2006

DWC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient: \_\_\_\_  
DWC #: \_\_\_\_  
MDR Tracking #: M2-06-0948-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI-Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the DWC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_\_ was injured on \_\_\_\_ while employed with the \_\_\_\_ . She apparently fell from a height of eight feet to the ground from a ladder. The records indicate she is a 63 year-old female who measures 5'4" and weighs 260 pounds. She is borderline hypertensive and morbidly obese. According to the exam of 1/9/06, Ms. \_\_\_\_ demonstrates decreased reflexes (1+) in the bicep (left) and there is reduced sensation at S1, C6 and C7. The DCML was within normal limits. No motor loss was noted and neurological examination was generally within normal limits with the minor exceptions noted above. Cervical, lumbar and left knee ROM was noted to be reduced. Multiple issues were noted via MRI of the cervical, lumbar spine and left knee. Dr. Eaves requests 3x4 with passive and active therapies secondary to an exacerbation. The records indicate, "simple tasks such as sitting, standing, walking, getting up from bed or cleaning are difficult to perform." Dr. Eaves quotes several sources which note the following basic principles: third phase of remodeling lasts from 3 weeks to 12 months or more, the aims of rehab are to regain pain free ROM, strength and power; and to regain function stresses of function must be put on the healing tissues.

The 1/30/06 report by Dr. Garcia indicates that this patient requires PT in a home exercise setting to correct her biomechanics. He also indicates she cannot work in any capacity and recommends an orthopedic consultation. It is interesting to note that from the evaluation in January of 2005 the patient gained an additional approximately 30 pounds through January of 2006.

#### RECORDS REVIEWED

Records were received and reviewed from the requestor, respondent and from the treating doctor. Records from the requestor include the following: 2/20/06 letter by Dr. Eaves and 99214/99215 evaluations of 9/7/05 through 1/9/06.

Records from the treating doctor include some of the above in addition to the following: 99215 evaluations from 3/9/05 through 01/19/06, PPE of 2/3/05, 6/6/05 through 1/30/06 reports by CP Garcia, MD, 12/15/04 99205 eval by Dr. Flood, 1/4/05 left knee and lumbar spine MRI and SOAP note from 1/18/06, 11/9/01 report by Dr. Wasserburger and 10/18/01 lumbar MRI.

The following are records from the respondent that are in addition to any previously mentioned: 3/28/06 letter by Robert Josey, 1/23/06 and 2/7/06 denial letters, 2/4/05 dispute of entitlement letter, E1 report, and denial letters, 5/19/05 through 8/16/05 letters by Dr. Flood, 5/31/05 through 7/7/05 reports by Kevin White, DC, Gary Freeman, MD peer review of 5/26/05, SOAP notes of 1/03/05 through 5/17/05, 4/25/05 report by Dr. Garcia, various TWCC 73's, denial of CPM program letters dated 2/21/05 and 3/2/05, 3/2/05 follow up psychiatric evaluation by J. Ganc, MD, 2/16/05 letter by Dr. Flood, psych evals by Dr. Ganc of 1/27/05 through 2/10/05, 1/26/05 case management report by Genex, 1/19/05 report by Rolando Rodriguez, MD, 4/28/05 recon request letter by SA Spine, various TWCC 62's, 12/15/04 note by L. Roddick, DC, 10/12/04 report by Dr. Roddick, 9/7/04 report by Monsoor Khan, DC and 5/28/02 review by Dr. White.

#### REQUESTED SERVICE

The requested service is a 12-session treatment plan consisting of 97110, 97140, 97032 and 97035.

#### DECISION

The reviewer agrees with the previous adverse determination.

#### BASIS FOR THE DECISION

The reviewer indicates that upon review of the medical records submitted there is no evidence of an exacerbation to the patient's spine or knee. The records indicate that there was an exacerbation but they do not indicate how this exacerbation occurred or how it is related to the compensable injury. The requestor quotes TX Labor Code 408.021 and 401.011 indicating that the proposed treatments will meet these requirements. The reviewer indicates that further material recovery from the compensable injury is not likely to occur with the proposed treatment.

Secondly, the treatment will not likely cure/relieve the natural effects of the injury or promote return to work. The treating doctor has indicated that these treatments fall within the phase III tissue remodeling guidelines. The reviewer finds this to be outside of the standards used by the vast majority of providers in the State of Texas. The reviewer indicates that her pain is likely secondary to her morbid obesity. In fact, the patient appears to be gaining weight at this point in time. This is an ordinary disease of life and is in no way connected to the compensable injury.

The reviewer fails to find reason as to why 12 visits of in office physical modalities or supervised therapeutics will improve a patient who has failed to improve over the previous 5 years of treatment. The reviewer is aware of no protocol that would allow for such an extended treatment protocol. Specifically, the American Chiropractic Association's Council of Chiropractic Physiological Therapeutics and Rehabilitation protocols indicate that rehabilitation should be used in the subacute (II) and chronic phase (III) of treatment. It is generally accepted that the chronic phase lasts up to 12 months. For example, review the ROM measurements from the 12/15/04 as compared to the 1/9/06 examinations. No cervical or lumbar ROM is increased by more than 5 degrees. The knee ROM actually decreased by 5 degrees in extension.

Pg. 118 of the ACSM Guidelines indicate that maximum therapeutic benefit (MTB) is reached when "failure to improve beyond a certain level of symptomatology or disability, whatever the treatment/care approach". Therapeutic necessity is defined as "exists in the presence of impairment evidence by recognized signs...likely to respond favorably to treatment planned". It is the reviewer's opinion that this patient has reached MTB and the requested services do not meet the therapeutic necessity requirements.

## REFERENCES

Reed, P Medical Disability Advisor, 2003, Internet

McGill SM. Low back exercises: prescription for the healthy back and when recovering from injury in: ACSM resource manual: Guidelines for Exercise Testing and Prescription, 3<sup>rd</sup> Edition. Lea and Febinger

Council of Chiropractic Physiological Therapeutics and Rehabilitation Protocols

Texas Labor Code 408.021

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that the reviewing provider has no known conflicts of interest between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

Sincerely,

Wendy Perelli, CEO

### **Your Right To Appeal**

**If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.**

**If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.**

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the via facsimile, U.S. Postal Service or both on this 6<sup>th</sup> day of April 2006**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative:            Wendy Perelli**